

Considering Cultural Resources Under NEPA

NEPA Guidance

[National Environmental Policy Act](#)

Federal or federally-assisted projects must take into account effects on historic and cultural resources.

[CEQ NEPA Regulations \(40 CFR 1500-1508\)](#)

Department of the Interior NEPA Procedures/Guidance

Departmental Responsibilities for Indian Trust
Resources and Indian Sacred Sites on Federal Lands
(DOI Environmental Compliance Memorandum 97-2)

[Departmental NEPA Procedures \(516 DM 1-6\)](#)

FWS NEPA Guidance

FWS NEPA Procedures in the Departmental Manual
(516 DM 6, Appendix 1)

[NEPA Guidance in Service Manual \(550 FW 1-3\)](#)

Council on Environmental Quality

NEPA Regulations

Definition of “Effects” requires that the EA/EIS must address historic and cultural resources. (40 CFR 1508.8)

Adverse and beneficial effects must be addressed in NEPA documents. (40 CFR 1508.8)

The “Affected Environment” section of an EA/EIS should provide background information on the prehistory and history of the area and describe known historic and cultural resources that may be affected by the project. (40 CFR 1502.15)

The “Environmental Consequences” section of the EA/EIS must address effects to historic or cultural resources that could result from the proposed action and each alternative. (40 CFR 1502.16(f))

DOI & FWS Cultural Resource and NEPA Policy and Guidance

DOI/FWS NEPA procedures and guidance mirror CEQ's regulations.

DOI ECM97-2 Requires:

- Identifying impacts to Indian trust resources and sacred sites

- Consulting with the affected tribe(s)

- Address all impacts to cultural resources in the "Environmental Consequences" section of the EA/EIS.

- Substantial impacts to Indian trust resources or sacred sites must be addressed as a separate impact topic in the "Environmental Consequences" section.

- If there are insignificant or no impacts to Indian trust resources or sacred sites, state it as such in the scoping section of the EIS.

FWS Service Manual, [614 FW 1-5](#)

- Requires that all Environmental Action Statements be reviewed and signed by the appropriate Regional Historic Preservation Officer.

- Thresholds for considering effects on cultural resources are lower than under NEPA. Categorical exclusions under NEPA do not apply to the NHPA compliance process. (614 FW 2.2.B)

Integrating NEPA with the Section 106 Process

Key Points

Begin addressing Section 106 issues in the NEPA scoping process.

Section 106 compliance should run parallel and be integrated with the NEPA process.

The results of Section 106 compliance should be completed and incorporated into the final EA/EIS and FONSI/ROD.

If a FWS action is categorically excluded under NEPA, this does not eliminate the need to comply with Section 106.

DOI NEPA procedures provide an exception to categorical exclusions when historic and cultural resources may be adversely affected.

Any unresolved cultural resource issues necessitate the preparation of an EA.

Integrating NEPA with the Section 106 Process

Section 106 Process

Is the project an undertaking?

Consult with tribes, SHPO and interested parties.

If an undertaking, define the area of potential effect.

Identify and evaluate historic properties.

Assess effects.

Consult to develop a MOA to mitigate adverse effects.

If necessary, consult with the ACHP.

Proceed and implement the

terms of the MOA.

NEPA Process

Address issues driving the scoping process.

and

Incorporate issues into the preliminary draft EA/EIS.

Address assessment of effects on historic properties in the preliminary draft EA/EIS.

Issue Draft EA/EIS and address comments on S. 106 compliance process in

preliminary final EA/EIS.

Issue of final EA/EIS.

Issue of FONSI/ROD, and
implement actions.